

date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS section 911 exemption.

(b) In the event that an employee subsequently receives a section 911 exclusion for any part of the base salary upon which this supplement has been paid, such supplement or appropriate portion thereof shall be reimbursed by the contractor to USAID with interest. The interest shall be calculated at the average U.S. Treasury rate in effect for the period that the contractor or his employee had the funds. Neither the contractor's nor the subcontractor's inability to collect refunds from eligible employees shall be used as a basis to excuse subsequent refunds by the contractor to USAID.

[57 FR 5236, Feb. 13, 1992]

### **Subpart 731.3—Contracts With Educational Institutions**

#### **731.370 Predetermined fixed rates for indirect costs.**

Section 635(k) of the Foreign Assistance Act of 1961, as amended, authorizes USAID to use predetermined fixed rates in determining the indirect costs applicable under contracts with educational institutions.

#### **731.371 Compensation for personal services.**

(a) *General.* When establishing the workweek for employees overseas the contractor will take local and USAID Mission practice into account and will ensure that the workweek is compatible with that of those USAID Mission and Cooperating Country employees with whom the contractor will be working.

(b) *Salaries and wages.* (1) It is USAID policy that if an employee's base salary plus overseas recruitment incentive, if any (see AIDAR 731.205-70), exceeds the maximum hourly, daily, or annual rate for a Executive Service level ES-6, it will be allowable only if approved in

writing by the Contracting Officer. The Contracting Officer shall only provide such approval after internal Agency procedures for review/approval of salaries in excess of the ES-6 rate have been followed.

(2) In considering consulting income as a factor when determining allowable salary for service under a contract:

(i) For faculty members working under annual appointments, salary for service under the contract may include the employee's on-campus salary plus "consulting income" (that is, income from employment other than the employee's regular on-campus appointment, excluding business or other activities not connected with the employee's profession) earned during the year preceding employment under the contract.

(ii) For faculty members working under academic year appointments, salary for service under the contract may include the employee's on-campus academic year salary plus "consulting income" as defined above earned during the year proceeding employment under the contract, or salary for service under the contract may be derived by annualizing the academic year salary (in which case "consulting income" may not be included).

(3) USAID policies and compensation of third country national or cooperating country national employees are set forth in AIDAR 722.170.

[57 FR 5236, Feb. 13, 1992, as amended at 60 FR 11913, Mar. 3, 1995; 62 FR 40469, July 29, 1997]

#### **731.372 Fringe benefits.**

USAID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in AIDAR 752.70.

[57 FR 5236, Feb. 13, 1992]

#### **731.373 Overseas recruitment incentive.**

USAID's policies regarding overseas recruitment incentives are set forth in AIDAR 731.205-70. These policies are also applicable to contracts with an educational institution.

[57 FR 5236, Feb. 13, 1992]